

Article - Real Property

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§11A–120.

(a) If at the time of purchase of a time-share, the purchaser is permitted through any arrangement of the developer to become a member of or to participate in any program for the exchange of occupancy rights with other time-share projects, the public offering statement or a supplement delivered with the public offering statement shall disclose:

- (1) The name and address of the exchange company;
- (2) The names of all officers, directors, and shareholders holding more than 10 percent of the voting stock of the exchange company;
- (3) Whether the exchange company or any of its officers or directors has any legal or beneficial interest in any developer or managing entity for any time-share project participating in the exchange program, and if so, the name and location of the time-share project and the nature of the interest;
- (4) Whether the purchaser's participation in the exchange program is dependent upon the time-share project's continued affiliation with the exchange program;
- (5) That the purchaser's participation in the exchange program is voluntary;
- (6) The terms and conditions of the purchaser's contractual relationship with the exchange program, and the procedure by which changes may be made;
- (7) The procedure to qualify for and effectuate exchanges;
- (8) All limitations, restrictions, or priorities employed in the operation of the exchange program, including limitations on exchanges based on season, unit size, or levels of occupancy, expressed in bold-faced type; and in the event that such limitations, restrictions, or priorities are not uniformly applied by the exchange program, the manner in which they are applied;
- (9) Whether exchanges are arranged on a space available basis, and whether any guarantees of fulfillment of specific requests for exchanges are made by the exchange program;

(10) Whether and under what circumstances a purchaser may, in dealing with the exchange program, lose the use and occupancy of his time-share period in any properly applied for exchange without being provided with substitute accommodations by the exchange program;

(11) The fees for participation by purchasers in the exchange program, whether any such fees may be altered by the exchange company, and the circumstances under which alterations may be made;

(12) The name and address of the site of each accommodation or facility in the time-share projects participating in the exchange program;

(13) The number of time-share units in each participating time-share project which are available for occupancy expressed within the following numerical groupings: 1-5; 6-10; 11-20; 21-50; 51 and over;

(14) The number of currently enrolled purchasers at each time-share project participating in the exchange program, expressed within the following numerical groupings: 1-100; 101-249; 250-499; 500-999; 1,000 and over; and a statement of the criteria used to determine those purchasers who are currently enrolled in the exchange program;

(15) The disposition made by the exchange company of time-share periods deposited with the exchange program by purchasers enrolled in the exchange program and not used by the exchange company in effecting exchanges;

(16) The following information which shall be independently audited by a certified public accountant or accounting firm in accordance with the standards of the Accounting Standards Board of the American Institute of Certified Public Accountants, and reported on an annual basis on or before July 1 of the succeeding year but prepared not more than 18 months before the information is delivered:

(i) The number of purchasers currently enrolled in the exchange program;

(ii) The number of accommodations and facilities that have current affiliation agreements with the exchange program;

(iii) The percentage of confirmed exchanges which shall be based on the number of exchanges properly applied for, together with the criteria used to determine whether an exchange request was properly applied for;

(iv) The number of time-share periods for which the exchange program has an outstanding obligation to provide an exchange to purchasers who relinquished a time-share period during the year in exchange for a time-share period in any future year; and

(v) The number of exchanges confirmed by the exchange program during the year; and

(17) A statement in bold-faced type to the effect that the percentage described in paragraph (16)(iii) of this subsection is a summary of the exchange requests entered with the exchange program in the period reported, and that the percentage does not indicate a purchaser's probabilities of being confirmed to any specific choice or range of choices.

(b) Any exchange company offering an exchange program to purchasers in this State shall file with the Commission on an annual basis the information required to be included in the public offering statement. If at any time the Commission determines that any of the information supplied by an exchange company fails to meet the requirements of this section, the Commission may undertake enforcement action against the exchange company in accordance with the provisions of this title. No developer shall have any liability with respect to any violation of this section arising out of the publication by the developer of written information provided by an exchange company. No exchange company shall have any liability with respect to any violation of this title arising out of the use by a developer of information relating to an exchange program other than written information provided to the developer by the exchange company.

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